

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

March 29, 2011

In the Matter of FALOON/COX, Minors.

No. 299158

Sanilac Circuit Court

Family Division

LC No. 06-034791-NA

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Before: CAVANAGH, P.J., and JANSEN and SERVITTO, JJ.

PER CURIAM.

Respondent Burgess appeals by right the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

Respondent first challenges the trial court's determination that the statutory grounds for termination were established by clear and convincing evidence. We review the trial court's findings of fact for clear error. MCR 3.977(K); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). Deference is given to the trial court's special opportunity to judge the weight of the evidence and the credibility of the witnesses who appear before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Because child-protective proceedings are treated as a single continuous proceeding, we consider respondent's argument in light of the entire record. *In re LaFlure*, 48 Mich App 377, 391; 210 NW2d 482 (1973).

To the extent respondent suggests that the trial court had an insufficient basis for exercising jurisdiction over the oldest child, her claim is not properly before this Court because she failed to challenge the trial court's jurisdictional decision in an appeal from the initial dispositional order. MCR 3.993(A)(1); *In re Gazella*, 264 Mich App 668, 680; 692 NW2d 708 (2005). In any event, under the doctrine of anticipatory neglect, a parent's treatment of one child is probative of how that parent will treat other children. *Id.*; see also *In re Jackson*, 199 Mich App 22, 26; 501 NW2d 182 (1993). In addition, a trial court may apprise itself of all relevant circumstances when evaluating the conditions that led to the adjudication. *Id.*

Here, the evidence showed that respondent did not properly supervise her children, particularly the two younger children, who were frequently observed wandering outside respondent's apartment, even after respondent installed an alarm system to alert her if the children tried to leave. The trial court did not clearly err by finding that respondent's failure to properly supervise the children was a condition that led to the adjudication. The fact that the oldest child's supervisory needs may differ from those of her younger siblings did not preclude the trial court from using the doctrine of anticipatory neglect to find that the condition that led to

the adjudication applied to her circumstances as well. Indeed, the evidence supports an inference that the oldest child had already suffered emotional harm because of respondent's neglect, inasmuch as she displayed symptoms of a child who was placed in a position of having to act as a parent to her younger siblings and she was diagnosed as suffering from a reactive attachment disorder caused by years of parental neglect. Further, there was evidence that the oldest child was removed from respondent's home at the outset of the case because respondent allowed her to have contact with an individual who was accused of sexually abusing the child, thereby reflecting respondent's inappropriate or poor judgment in supervisory matters. The trial court did not clearly err by finding that § 19(3)(c)(i) was applicable to the oldest child as well as the younger children.

The trial court's decision reflects that it also considered respondent's supervisory deficiencies in its evaluation under § 19b(3)(g). The trial court did not clearly err by finding clear and convincing evidence that respondent, without regard to intent, had failed to provide proper care or custody for the oldest child and that there was no reasonable expectation that respondent would be able to do so within a reasonable time considering that child's age. We disagree with respondent's argument that it was necessary for the trial court to give her an opportunity to implement what she was taught by having the oldest child placed in her home for one-on-one parenting time before terminating her parental rights. The reasonableness of the services offered by petitioner is a factor in evaluating the sufficiency of the evidence supporting a statutory ground for termination. See *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). But parental fitness may also be evaluated in other ways when a child has been removed from a respondent's home. *In re Sours*, 459 Mich 624, 637-638; 593 NW2d 520 (1999). In addition, when services are provided, "a parent must benefit from the services so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody." *In re Gazella*, 264 Mich App at 676.

By the time of the termination hearing, respondent had been provided with a number of services that were developed with the aid of mediation proceedings. In addition to receiving psychological evaluations, drug screens, individual and family counseling, in-home services, and a parent aide, a plan was implemented for the youngest child to be placed in respondent's home, with overnight visits by the two other children, to evaluate respondent's parenting abilities. While each of respondent's three children presented unique parenting challenges, given respondent's inability to demonstrate consistent parenting skills, the trial court's failure to provide respondent with an opportunity to have another child placed in her home for one-on-one parenting time was not unreasonable. Respondent conceded at the termination hearing that the children had already waited too long for her to change. Giving appropriate deference to the trial court's superior position to assess the credibility of the witnesses, we find no clear err in the court's determination that there was no reasonable expectation that respondent would be able to provide proper care and custody for her oldest child within a reasonable time considering the child's age. Although respondent's arguments on appeal are directed solely at the oldest child, we reach this same conclusion with respect to the two younger children as well. The trial court did not clearly err by finding that the statutory grounds for termination were established by clear and convincing evidence with respect to each child.

Finally, considering the children's need for permanency and a proper environment where they could be consistently cared for and safely parented, the trial court did not clearly err by finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); MCR 3.977(K).

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Kathleen Jansen  
/s/ Deborah A. Servitto